

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

PETER JAMES SMITH,)
)
Plaintiff,) CIVIL ACTION NO.
)
v.) 2:20cv406-MHT
)
 (WO)
WALMART INC. and WALMART)
STORE # 00938,)
)
Defendants.)

OPINION

Plaintiff filed this lawsuit asserting gender discrimination, race discrimination, and unlawful retaliation under the Civil Rights Act of 1964 after he was denied entry to a Walmart store. This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that plaintiff's case be dismissed. There are no objections to the recommendation. After an independent and de novo review of the record, the court concludes that the magistrate judge's recommendation should be adopted, with one minor caveat.

Reading the pro se complaint liberally, the court might have construed plaintiff's claim for race discrimination in public accommodations as having been brought under 42 U.S.C. § 1981 rather than under Title II of the Civil Rights Act of 1964, although plaintiff admittedly mentions only the latter statute in his complaint. Plaintiff seeks damages, which may be available for a public-accommodations claim under § 1981 but are not available under Title II. In any case, plaintiff has not stated a claim under § 1981 due to his failure to follow the guidance of the magistrate judge to plead facts showing that he was a member of a protected class, i.e., to plead his race. See Order (Doc. 15) at 15.

An appropriate judgment will be entered.

DONE, this the 14th day of June, 2021.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE